

AO 121 (Rev. 06/16)

TO:

**Register of Copyrights
U.S. Copyright Office
101 Independence Ave. S.E.
Washington, D.C. 20559-6000**

**REPORT ON THE
FILING OR DETERMINATION OF AN
ACTION OR APPEAL
REGARDING A COPYRIGHT**

In compliance with the provisions of 17 U.S.C. 508, you are hereby advised that a court action or appeal has been filed on the following copyright(s):

<input checked="" type="checkbox"/> ACTION <input type="checkbox"/> APPEAL		COURT NAME AND LOCATION US District Court - District of Nevada 333 S Las Vegas Blvd Las Vegas, NV 89101
DOCKET NO. 2:21-cv-00898	DATE FILED 5/7/2021	
PLAINTIFF August Image, LLC and Creative Photographers Inc.		Breathe Heavy, LLC
COPYRIGHT REGISTRATION NO.	TITLE OF WORK	AUTHOR OR WORK
1 See attached.		
2		
3		
4		
5		

In the above-entitled case, the following copyright(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
COPYRIGHT REGISTRATION NO.	TITLE OF WORK	AUTHOR OF WORK
1		
2		
3		

In the above-entitled case, a final decision was rendered on the date entered below. A copy of the order or judgment together with the written opinion, if any, of the court is attached.

COPY ATTACHED <input type="checkbox"/> Order <input type="checkbox"/> Judgment	WRITTEN OPINION ATTACHED <input type="checkbox"/> Yes <input type="checkbox"/> No	DATE RENDERED
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CLERK Debra Kempf	(BY) DEPUTY CLERK /s/ H. Magennis	DATE 5/11/21
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- 1) Upon initiation of action,
mail copy to Register of Copyrights 2) Upon filing of document adding copyright(s),
mail copy to Register of Copyrights 3) Upon termination of action,
mail copy to Register of Copyrights

DISTRIBUTION:

- 4) In the event of an appeal, forward copy to Appellate Court 5) Case File Copy

Print**Save As...****Reset**

EXHIBIT 1 – TABLE OF WORKS

EXHIBIT 1 – TABLE OF WORKS

<u>Title</u>	<u>Author</u>	<u>Registration Number</u>	<u>Registration Date</u>
<u>AUGUST WORKS</u>			
AU11000168.jpg	Sebastian Kim	VA 2-198-319	2/27/2020
AU11000819.jpg	Sebastian Kim	VA 2-199-785	3/11/2020
AU11035259.jpg	Mark Jonathan Williams	VA 2-120-245	8/24/2018
AU11056012.jpg	Tesh Patel	VA 2-219-280	9/22/2020
AU11065931.jpg	Brian Bowen Smith	VA 2-110-392	7/13/2018
AU11065935.jpg	Brian Bowen Smith	VA 2-110-392	7/13/2018
AU11065941.jpg	Brian Bowen Smith	VA 2-110-392	7/13/2018
AU11065942.jpg	Brian Bowen Smith	VA 2-110-392	7/13/2018
AU11065943.jpg	Brian Bowen Smith	VA 2-110-392	7/13/2018
AU11082364.jpg	Austin Hargrave	VA 2-227-879	10/12/2020
AU11083110.jpg	Miller Mobley	VA 2-227-659	11/9/2020
AU11083111.jpg	Miller Mobley	VA 2-227-659	11/9/2020
AU11083399.jpg	Miller Mobley	VA 2-227-659	11/9/2020
AU11085496.jpg	Joe Pugliese	VAu 1-303-859	7/26/2017
AU11139691.jpg	Camila Akrans	VA 2-219-286	9/22/2020
AU11153249.jpg	Camila Akrans	VA 2-211-783	6/30/2020
AU11153260.jpg	Camila Akrans	VA 2-211-783	6/30/2020
AU11153261.jpg	Camila Akrans	VA 2-211-783	6/30/2020
AU11153263.jpg	Camila Akrans	VA 2-211-783	6/30/2020
AU11162109.jpg	Ramona Rosales	VA 2-221-615	10/5/2020
AU11211359.jpg	James Macari	VA 2-219-279	9/22/2020

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<u>Title</u>	<u>Author</u>	<u>Registration Number</u>	<u>Registration Date</u>
AU11211376.jpg	James Macari	VA 2-219-279	9/22/2020
AU11211377.jpg	James Macari	VA 2-219-279	9/22/2020
AU1121252.jpg	Martin Schoeller	VA 2-236-370	1/20/2021
AU1121257.jpg	Martin Schoeller	VA 2-236-370	1/20/2021
AU11229677.jpg	Miller Mobley	VA 2-231-277	11/9/2020
AU11229679.jpg	Miller Mobley	VA 2-231-277	11/9/2020
AU11230935.jpg	Kenneth Willardt	VA 2-241-679	1/27/2021
AU11230937.jpg	Kenneth Willardt	VA 2-241-679	1/27/2021
AU11230938.jpg	Kenneth Willardt	VA 2-241-679	1/27/2021
AU11230939.jpg	Kenneth Willardt	VA 2-241-679	1/27/2021
AU11235142.jpg	Miller Mobley	VA 2-231-277	11/9/2020
AU11243627.jpg	Austin Hargrave	VA 2-197-986	2/20/2020
AU11307348.jpg	Art Streiber	VA 2-127-252	11/16/2018
AU11307349.jpg	Art Streiber	VA 2-127-252	11/16/2018
AU11307351.jpg	Art Streiber	VA 2-127-252	11/16/2018
AU11307438.jpg	Art Streiber	VA 2-127-252	11/16/2018
AU11315340.jpg	Austin Hargrave	VA 2-197-986	2/20/2020
AU11315481.jpg	Austin Hargrave	VA 2-197-986	2/20/2020
AU11326170.jpg	Kenneth Willardt	VA 2-240-320	1/27/2021
AU11326176.jpg	Kenneth Willardt	VA 2-240-320	1/27/2021
AU11330142.jpg	Miller Mobley	VA 2-231-277	11/9/2020
AU11330143.jpg	Miller Mobley	VA 2-231-277	11/9/2020
AU11363967.jpg	Austin Hargrave	VA 2-199-792	3/11/2020

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<u>Title</u>	<u>Author</u>	<u>Registration Number</u>	<u>Registration Date</u>
AU11437310.jpg	David Needleman	VA 2-199-875	3/16/2020
AU11473109.jpg	David Needleman	VA 2-199-875	3/16/2020
AU11474839.jpg	David Needleman	VA 2-199-881	3/16/2020
AU11475072.jpg	David Needleman	VA 2-199-881	3/16/2020
AU1268156.jpg	Andrew Eccles	VA 2-227-708	12/5/2020
AU1268160.jpg	Andrew Eccles	VA 2-227-708	12/5/2020
AU1268175.jpg	Andrew Eccles	VA 2-229-843	10/7/2020
AU1268181.jpg	Andrew Eccles	VA 2-229-843	10/7/2020
AU1459238.jpg	Joe Pugliese	VAu 1-177-344	8/19/2014
AU1459240.jpg	Joe Pugliese	VAu 1-177-344	8/19/2014
AU1459241.jpg	Joe Pugliese	Vau 1-177-344	8/19/2014
AU1478336.jpg	Austin Hargrave	VA 2-227-879	10/12/2020
AU1478339.jpg	Austin Hargrave	VA 2-227-879	10/12/2020
AU1502643.jpg	Ramona Rosales	VA 2-241-708	1/26/2021
AU1502936.jpg	Martin Schoeller	VA 2-238-548	2/5/2021
AU1502939.jpg	Martin Schoeller	VA 2-238-548	2/5/2021
AU1502940.jpg	Martin Schoeller	VA 2-238-548	2/5/2021
AU1513168.jpg	Brian Bowen Smith	VA 2-227-640	11/11/2020
AU1514302.jpg	Martin Schoeller	VA 2-238-548	2/5/2021
AU1514304.jpg	Martin Schoeller	VA 2-238-548	2/5/2021
AU1578783.jpg	Joe Pugliese	Vau 1-221-541	6/22/2015
AU1578786.jpg	Joe Pugliese	Vau 1-221-541	6/22/2015
AU1593907.jpg	Ramona Rosales	VA 2-221-664	9/29/2020

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<u>Title</u>	<u>Author</u>	<u>Registration Number</u>	<u>Registration Date</u>
AU1654589.jpg	Joe Pugliese	VA 2-010-920	2/22/2016
AU1656574.jpg	Brian Bowen Smith	VA 2-241-666	1/27/2021
AU1672560.jpg	Brooke Nipar	VA 2-235-006	1/29/2021
AU1672734.jpg	Brooke Nipar	VA 2-235-006	1/29/2021
AU1756845.jpg	Joe Pugliese	VAu 1-177-344	8/19/2014
AU1765483.jpg	Danielle Levitt	VA 2-241-685	1/26/2021
AU1765484.jpg	Danielle Levitt	VA 2-241-685	1/26/2021
AU1766366.jpg	Ramona Rosales	VA 2-221-664	9/29/2020
AU1788308.jpg	Joe Pugliese	Vau 1-244-524	2/22/2016
AU1788429.jpg	Joe Pugliese	Vau 1-244-524	2/22/2016
AU1812834.jpg	Miller Mobley	VA 2-243-613	3/3/2021
AU1812835.jpg	Miller Mobley	VA 2-243-613	3/3/2021
AU1812837.jpg	Miller Mobley	VA 2-243-613	3/3/2021
AU1850334.jpg	Miller Mobley	VA 2-243-613	3/3/2021
AU1852703.jpg	Miller Mobley	VA 2-229-550	11/2/2020
AU1852868.jpg	Miller Mobley	VA 2-243-613	3/3/2021
AU1852874.jpg	Miller Mobley	VA 2-229-550	11/2/2020
AU1852881.jpg	Miller Mobley	VA 2-229-550	11/2/2020
AU1864998.jpg	Ramona Rosales	VA 2-221-664	9/29/2020
AU1865833.jpg	Miller Mobley	VA 2-243-555	3/3/2021
AU1868356.jpg	Gavin Bond	VA 2-240-190	1/23/2021
AU1868361.jpg	Gavin Bond	VA 2-240-190	1/23/2021
AU1869645.jpg	Brian Bowen Smith	VA 2-241-666	1/27/2021

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<u>Title</u>	<u>Author</u>	<u>Registration Number</u>	<u>Registration Date</u>
AU1897185.jpg	Joe Pugliese	Vau 1-307-309	7/26/2017
AU1897961.jpg	Austin Hargrave	VA 2-200-021	3/11/2020
AU1897962.jpg	Austin Hargrave	VA 2-200-021	3/11/2020
AU1913181.jpg	Ramona Rosales	VA 2-221-660	10/5/2020
AU1914466.jpg	Ramona Rosales	VA 2-221-660	10/5/2020
AU1943063.jpg	Ramona Rosales	VA 2-221-660	10/5/2020
AU1986459.jpg	Miller Mobley	VA 2-243-555	3/3/2021
AU1992791.jpg	Sebastian Kim	VA 2-198-311	2/27/2020
AU1992871.jpg	Sebastian Kim	VA 2-198-311	2/27/2020
AU1993669.jpg	Camila Akrans	VA 2-219-286	9/22/2020
AU1993680.jpg	Camila Akrans	VA 2-219-286	9/22/2020
AU1993683.jpg	Camila Akrans	VA 2-219-286	9/22/2020
AU1993945.jpg	Victor Demarchelier	VA 2-227-859	12/5/2020
AU1996452.jpg	Camila Akrans	VA 2-240-307	1/27/2021
AU2158467.jpg	Mark Seliger	VA 2-098-099	3/21/2018
AU2159559.jpg	Mark Seliger	VA 2-114-782	7/13/2017
AU2159562.jpg	Mark Seliger	VA 2-114-782	7/13/2017
AU2234730.jpg	Daniel Sannwald	VA 2-234-970	1/29/2021
AU242523.jpg	Guerin Blask	VA 2-212-178	7/6/2020
AU257456.jpg	Ben Hassett	VA 2-200-248	3/19/2020
110 August Works Infringed			

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<u>Title</u>	<u>Author</u>	<u>Registration Number</u>	<u>Registration Date</u>
<u>CPI WORKS</u>			
180305_ZoG_PAPER_C_AGUILERA_SHOT_01_0189_v3-scr.jpg	Zoey Grossman	VA 2-105-011	5/11/2018
180305_ZoG_PAPER_C_AGUILERA_SHOT_02_0342_v1-scr.jpg	Zoey Grossman	VA 2-105-011	5/11/2018
180305_ZoG_PAPER_C_AGUILERA_SHOT_04_0623_v3-scr.jpg	Zoey Grossman	VA 2-105-011	5/11/2018
180305_ZoG_PAPER_C_AGUILERA_SHOT_06_1085_v2-scr.jpg	Zoey Grossman	VA 2-105-011	5/11/2018
20171030_BILLBOARD_SELENA_GOMEZ_S01_049-scr.jpg	Ruven Afanador	VA 2-100-305	4/24/2018
20171030_BILLBOARD_SELENA_GOMEZ_S06_006_COLOR-scr.jpg	Ruven Afanador	VA 2-100-305	4/24/2018
20190411_BILLBOARD_JONAS_BROTHERS_PLATES_0087_85_80_R5_no_car-scr.jpg	Ruven Afanador	VA 2-159-392	7/12/2019
SHOT_03_0011_v5_EXT.jpg	Zoey Grossman	VA 2-210-984	6/2/2020
SHOT_05_0062_v5.jpg	Zoey Grossman	VA 2-210-984	6/2/2020
SHOT_05_043_050_v6_EXT.jpg	Zoey Grossman	VA 2-200-791	3/26/2020
SHOT_07_061_EXT_v3_OPT2.jpg	Zoey Grossman	VA 2-200-791	3/26/2020
SHOT_08_006_v4.jpg	Zoey Grossman	VA 2-200-791	3/26/2020
VMO12003_04_007.jpg	Vijat Mohindra	VA 1-956-633	4/21/2015
13 CPI Works Infringed			
123 Total Infringements by BHLLC			

1 Marc J. Randazza (NV Bar No. 12265)
2 Ronald D. Green, Jr. (NV Bar No. 7360)
3 Randazza Legal Group, PLLC
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5 Las Vegas, NV 89117
(702) 420-2001
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7 Attorneys for Plaintiffs
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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

16 AUGUST IMAGE, LLC and CREATIVE
17 PHOTOGRAPHERS INC.,
18
19 Plaintiffs,
20 v.
21
22 BREATHE HEAVY LLC,
23
24 Defendant.

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COMPLAINT FOR COPYRIGHT INFRINGEMENT
(INJUNCTIVE RELIEF DEMANDED)

28 Plaintiffs AUGUST IMAGE, LLC and CREATIVE PHOTOGRAPHERS INC., by and
29 through their undersigned counsel, bring this Complaint against Defendant BREATHE HEAVY
30 LLC for damages and injunctive relief, and in support thereof state as follows:

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SUMMARY OF THE ACTION

34 1. Plaintiffs AUGUST IMAGE, LLC and CREATIVE PHOTOGRAPHERS INC.
35 (collectively “Plaintiffs”) bring this action for violations of exclusive rights under the Copyright
36 Act, 17 U.S.C. § 106, to copy and distribute Plaintiffs’ original copyrighted Works of authorship.

1 2. AUGUST IMAGE, LLC ("August") is a unique agency model offering a boutique
2 experience for clients worldwide. Beyond the unique creative caliber and exclusivity of August's
3 photography, their deep knowledge of their collection and focus on the highest-level of customer
4 service make August an exceptional visual resource. August is dedicated to representing an elite
5 group of portrait, lifestyle, beauty, & fashion photographers for editorial and commercial licensing.
6 August is the exclusive representatives for the work of some of the most creative and innovative
7 contemporary photographers including Martin Schoeller, Art Streiber, Camilla Akrans, Ben
8 Hassett, Kenneth Willards, Joe Pugliese, and many more.
9

10 3. CREATIVE PHOTOGRAPHERS INC. ("CPI") was founded in 1994 by Geoffrey
11 and Pamela Katz with the vision to create an exclusive independent "boutique style" photo agency
12 that would provide quality service to its clients and personal attention to its artists. CPI continues
13 to build on its original philosophy that quality, content, and sales strength bring success. This
14 philosophy is prevalent throughout CPI's history and continues to be the driving force of the
15 organization today.
16

17 4. Defendant BREATHE HEAVY LLC ("BHLLC") originated in June 2004 as an
18 internet website for fans of Britney Spears, and was in operation for ten years before morphing
19 into a pop music news website in 2014. BHLLC features breaking news, music video and song
20 premieres, album and concert reviews, editorial pieces, and interviews with artists. At all times
21 relevant herein, BHLLC operated the internet website located at the URL www.breatheheavy.com
22 (the "Website").
23

24 5. Plaintiffs allege that BHLLC copied Plaintiffs' copyrighted Works from the
25 internet in order to advertise, market and promote its business activities. BHLLC committed the
26
27

1 violations alleged in connection with BHLLC's business for purposes of advertising and
2 promoting sales to the public in the course and scope of BHLLC's business.

3 **JURISDICTION AND VENUE**

4 6. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

5 7. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C.
6 §§ 1331, 1338(a).

7 8. Defendant is subject to personal jurisdiction in Nevada.

8 9. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a)
10 because the events giving rise to the claims occurred in this district, Defendant engaged in
11 infringement in this district, Defendant resides in this district, and Defendant is subject to personal
12 jurisdiction in this district.

13 **DEFENDANT**

14 10. Breathe Heavy LLC is a Nevada limited liability company, with its principal place
15 of business at 10697 Centennial Parkway, #2039, Las Vegas, Nevada, 89166, and can be served
16 by serving its Registered Agent, Mr. Jordan Miller, at the same address.

17 **THE COPYRIGHTED WORKS AT ISSUE**

18 Attached hereto as **Exhibit 1** is a table listing Copyright Titles, Registration Numbers and
19 Registration Issue Dates for the copyrighted works infringed by BHLLC, and which are referred
20 to herein as the "Works." Attached hereto as **Exhibit 2** are copies of the Works infringed.
21 Attached hereto as **Exhibit 3** are copies of the Registration Certificates for the Works.

22 11. Plaintiffs' Works are protected by copyright but are not otherwise confidential,
23 proprietary, or trade secrets.

12. At all relevant times, Plaintiffs were the owners of the copyrighted Works at issue in this case.

INFRINGEMENT BY DEFENDANT

13. BHLCC has never been licensed to use the Works at issue in this action for any purpose.

14. On a date after the Works at issue in this action were created, but prior to the filing of this action, BHLLC copied the Works.

15. On or about May 8, 2018, Plaintiffs discovered the unauthorized use by BHLLC of some of the Works on the Website. Thereafter, additional unauthorized uses of the Works by BHLLC were discovered.

16. BHLCC copied Plaintiffs' copyrighted Works without Plaintiffs' permission.

17. After BHLLC copied the Works, it made further copies and distributed the Works on the internet to promote the sale of goods and services as part of its pop music fan Website.

18. BHLLC copied and distributed Plaintiffs' copyrighted Works in connection with BHLLC's business for purposes of advertising and promoting BHLLC's business, and in the course and scope of advertising and selling products and services.

19. Plaintiffs' Works are protected by copyright but are not otherwise confidential, proprietary, or trade secrets.

20. BHLCC committed copyright infringement of the Works as evidenced by the documents attached hereto as **Exhibit 4**

21. Duffy never gave BHLLC permission or authority to copy, distribute or display the Works at issue in this case

RANDAZZA LEGAL GROUP

COUNT I

COPYRIGHT INFRINGEMENT

22. Plaintiffs incorporate the allegations of paragraphs 1 through 21 of this Complaint as if fully set forth herein.

23. Plaintiffs own valid copyrights in the Works at issue in this case.

24. Plaintiffs registered the Works at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

25. BHLLC copied, displayed, and distributed the Works at issue in this case and made derivatives of the Works without Plaintiffs' authorization in violation of 17 U.S.C. § 501.

26. BHLLC performed the acts alleged in the course and scope of its business activities.

27. BHLLC's acts were willful.

28. Plaintiffs have been damaged.

29. The harm caused to Plaintiffs has been irreparable.

JURY DEMAND

Plaintiffs hereby demand a trial by jury of all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs August Image, LLC and Creative Photographers Inc. pray for judgment against the Defendant Breathe Heavy LLC that:

a. Defendant and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;

b. Defendant be required to pay Plaintiffs their actual damages and BHLLC's profits attributable to the infringement, or, at Plaintiffs' election, statutory damages, as provided in 17 U.S.C. § 504;

- 1 c. Plaintiffs be awarded their attorneys' fees and costs of suit under the applicable
2 statutes sued upon;
3 d. Plaintiffs be awarded pre and post-judgment interest; and
4 e. Plaintiffs be awarded such other and further relief as the Court deems just and
5 proper.

6
7 DATED: May 7, 2021

Respectfully submitted,

9 /s/ Marc J. Randazza
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